

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q93246

Satoko YAMAHIRA, et al.

Appln. No.: 10/568,671

Group Art Unit: 1651

Confirmation No.: 2722

Examiner: Irene MARX

Filed: February 17, 2006

For: LACTIC ACID BACTERIA CAPABLE OF STIMULATING MUCOSAL IMMUNITY

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This responds to the Restriction Requirement, dated April 28, 2008. In response to the Restriction Requirement, Applicants elect Group I, Claims 4, 6 and 16-18, for examination. This election is made with traverse, for the following reasons.

In setting forth a Requirement for Restriction, the Examiner contends that the inventions of Groups I and II lack unity of invention because *Lactobacillus* compositions, in the form of food, beverages, or pharmaceuticals, were known in the art, citing Perdigon *et al.*

However, Applicants note that Perdigon *et al.* do not disclose the specific *Lactobacillus* strains recited in the instant claims (i.e. ONRICb0239 or ONRICb0240), nor do Perdigon *et al.* disclose the special technical feature possessed by such strains, namely a superior activity of stimulating mucosal immunity. As is evidenced in Example 2, and Tables 1-4, of Applicants'

disclosure, the claimed *Lactobacillus* strains illicit extremely high levels of IgA production in comparison to other bacteria.

In view of the above, Applicants respectfully submit that the inventions in Groups I and II are clearly linked by the special technical feature of exhibiting a superior activity of stimulating mucosal immunity, which is neither disclosed by Perdigon *et al.*, nor the art as a whole. Accordingly, the *Lactobacillus* strains embraced by the inventions of Groups I and II relate to a single inventive concept, as they share a special technical feature not disclosed by the prior art. Accordingly, Applicants respectfully submit that the inventions of Groups I and II possess unity of invention, and the Requirement for Restriction is thus improper. Applicants respectfully request that the Requirement for Restriction be withdrawn.

Applicant reserves the right to file one or more Divisional Applications directed to the subject matter of non-elected Claims 8 and 10.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

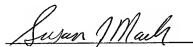
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Date: June 30, 2008


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